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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,124	04/13/2004	John F. Shanley	CMIS001USCNT7	6433
43027	7590	04/29/2010		
Philip S. Johnson, Esq. JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA WH3221 NEW BRUNSWICK, NJ 08933-7003			EXAMINER BUL VY Q	
			ART UNIT 3773	PAPER NUMBER
			MAIL DATE 04/29/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/824,124

Applicant(s)

SHANLEY, JOHN F.

Examiner

Vy Q. Bui

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 6-9 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 6-9, 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/06)
Paper No(s)/Mail Date 3/10/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

- a. line 3, it appears that a semicolon (;) is missing between -- a second diameter -- and -- wherein -- in the recitation "a second diameter wherein". Clarification is required.
- b. line 4, "when the second diameter" appears not grammatically proper. Correction is required.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 6-9, 11-12, 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ehr et al-6,033,433.

As to claims 1-3, 11-12, 14-17, Ehr-433 (please refer to a portion of Fig. 30 reproduced below) discloses a stent having S-shape bridging elements crossing three times at locations B, C, D the midlines AE of V-shapes as recited in the claims. Notice that a line can be a curved line or a straight line (please see definition 2 of term "line", for example, from one page of www.dictionary.com attached), line ABCDE as shown in Fig. 30 below is actually on a

cylindrical surface of a stent and indeed parallel to the longitudinal axis of the stent therefore meet the limitation as recited in claim 18.

Further as to claim 7, the curved section or alternate ends where two adjacent struts in a same cylindrical tube are reasonably considered as hinges and circumferential links because the Ehr-'433's stent expand occurs mainly at these curved sections/ alternate ends.

Further as to claim 9, end A is substantially at 180 degrees out of phase from end E.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 18 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischell et al.-5,697,971 in view of Jang-6,235,053.

As to claims 1, 4, Fischell-'971 (Figs. 2-3) discloses a stent 10 having cylindrical tubes having adjacent struts and S-shaped bridging elements substantially as recited in the claims, except for the connecting points of the S-shaped bridging elements located diagonally and bridging element less wider than strut as recited in the claims. However, Jang-'053 (Fig. 1-3, for example) discloses connecting points of the S-shaped bridging elements located diagonally (off-center connection) and S-shaped bridging elements less wider than adjacent struts. It would have been obvious to one of ordinary skill in the art at the time of the invention to move the connecting points to the locations as shown in modified Fischell-'971 stent in view of Jang-'053 (please, see Fig. 2 on next page) for this modified configuration provide Fischell-'971's S-shaped bridging elements longer, more flexible and having more stored length for expansion.

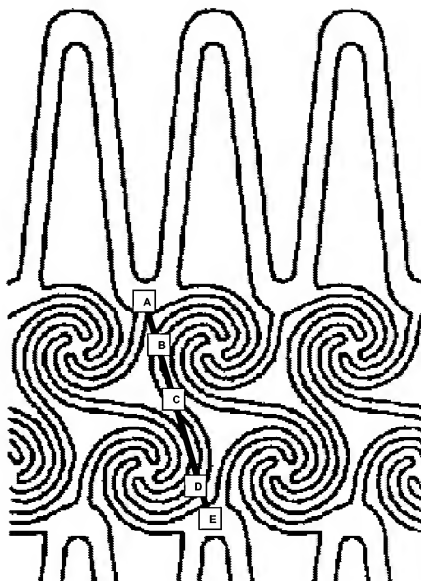


Fig. 30

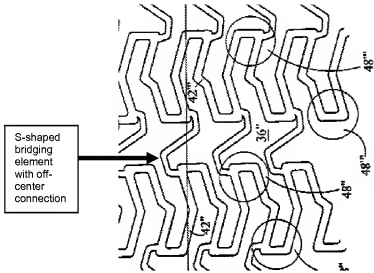


FIGURE 3

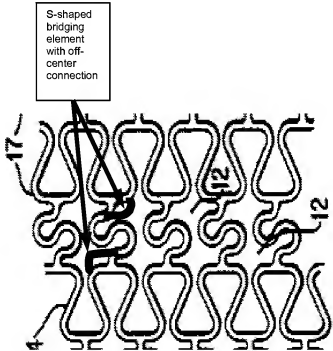


FIG. 2

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "sinusoidal bridging elements" does not have support in the specification.

Response to Arguments

Applicant's arguments filed 12/03/2009 have been fully considered but they are not persuasive.

The arguments suggested that the Ehr-'433 does not meet the limitation "sinusoidal bridging elements" as now recited in the independent claim 18.

However, this limitation is not support in the specification of this present application.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Vy Q. Bui/
Primary Examiner, Art Unit 3773